would be inconsistent with the respondent's conduct in wanting to amend the invitation letter so that the invitees' attention was drawn to r 12 (the forfeiture clause) of the club rules. More importantly, in our view, it was improbable that the directors would intend to entrap the invitees who were their friends, business associates and generally people of some social and financial standing in society. Furthermore, it is not disputed that Huang had already informed many of his friends that the sale price was $30,000 per share and many of the invitees did in fact know what the price was. The price had also been published in the newspapers on 5 and 6 April 1982. The acknowledged intention of the scheme was to establish an exclusive club and to profit substantially from it.

In any case, while the making of enormous profits may be morally objectionable to some, it is not morally wrong to want to make as much profit as possible and certainly not criminal per se. In that context, even if the deletion of the sale price was indeed to enable Huang to increase it subsequently, we do not think it amounted to such reprehensible conduct as to come within the ambit of s 80(2)(b) of the Legal Profession Act.

Accordingly, we must also disagree with the conclusions of the DC on this charge.

Conclusion

We find that the two charges nos 2 and 3 have not been made out by the Law Society. The respondent has therefore shown cause why he should not be dealt with by this court under the provisions of s 80 of the Legal Profession Act.

Having regard to all the circumstances we order that each party is to bear its own costs in the proceedings before us and before the Disciplinary Committee.

Order accordingly.

Solicitors: *Allen & Gledhill*; *Warren Khoo & Co.*

Reported by *Wong Kim Fatt*

Haji Aminah bte Bakri v Manisah bte Haji Bakri & Ors

HIGH COURT (SINGAPORE) – ORIGINATING SUMMONS NO 976 OF 1987
CHAO HICK TIN JC
1 NOVEMBER 1988

Succession – Wills – Co-executrix granted option for sale of testatrix's estate to third defendant without consulting executrix – Option contained clause that property is sold subject to co-executrix 'obtaining court's approval to sanction the sale if necessary' – Executrix subsequently received offer for sale of land at higher price than option price – Conditional contract for higher price entered into by executrix and new purchaser – Whether 'necessary' to obtain court's approval to sanction sale given by option – Whether sale to third defendant should be approved

Succession – Wills – Duty of court in approving sale of testatrix's estate by executrix – Relevant date in determining whether sale price is fair – Executrix's duty to secure the best price for sale

Evidence – Option granted for sale of land – Evidence of oral statements admissible to ascertain meaning of clause in option – Exception to parol evidence rule – Evidence Act (Cap 97, 1985 Ed), s 94

Words and Phrases – 'If necessary'

The plaintiff and the first defendant were both executrixes and trustees of the estate of a testatrix, which comprised a piece of property. After the death of the testatrix but well before any application was made for a grant of probate of the testatrix's will, the first defendant gave an option to the third defendant to purchase the piece of property for a sum of $432,600.

This option contained a clause, cl 15, which stated that 'the property is sold subject to (the first defendant) obtaining the court's approval to sanction the sale, if necessary'. The option was given by the first defendant without consulting the plaintiff, and was subsequently exercised by the third defendant. Later, the plaintiff received an offer to purchase the property at $560,000 and entered into a conditional contract of sale with the new purchaser at that price.

The plaintiff filed this originating summons, seeking the court's disapproval of the sale effected by the option granted by the first defendant to the third defendant. Counsel for the third defendant contended that: (a) the expression 'if necessary' in cl 15 of the option should be construed to mean as required or necessitated by law; and (b) that the facts deposed to in the affidavit of J, the first defendant's solicitor, should not be admissible by the court as evidence of any oral agreement or statement to contradict, vary, add to or subtract from the option granted by the first defendant.

Held, allowing the application in part:

(1) The word 'necessary' in cl 15 should not be construed to mean 'required by law'. What is necessary in a particular case is a question of fact. Clause 15 was inserted specifically for the protection of the first defendant, ie she reserves to herself the liberty to apply for the sanction of court if it is thought necessary for her protection. An instance where such an application to court would be necessary is where a beneficiary or a co-executrix explicitly alleges that the executrix has sold the property grossly below market price and thus caused loss to the

estate. In the face of such an allegation, as in the present case, the court does not see how one can argue that it is not necessary to obtain the court's approval pursuant to cl 15. There is in the circumstances of the case a contract of sale subject to the approval of the court.

(2) The facts deposed to by J are clearly admissible. Far from altering what is in cl 15, they help to clarify the intention of the parties and the meaning of that clause. The rule against parol evidence embodied in s 94 is not absolute and one of the exceptions is that 'any fact may be proved which shows in what manner the language of a document is related to existing facts'. The present matter falls within that exception.

(3) An executrix is a trustee and her duty is to obtain the best price for the assets of the estate that are being sold. In considering an application of this kind, the duty of the court is to see that the estate benefits as much as possible. There can be no doubt that the proposed sale to the third defendant cannot be approved. The relevant date to determine whether the sale price is fair is the date of hearing of this application. The plaintiff obtained an offer to purchase at a substantially increased price of $560,000. There will be substantial loss to the estate if the sale to the third defendant at $432,000 is approved.

Cases referred to

1 *Re Mercury Model Aircraft Supplies Ltd* [1956] 2 All ER 885 (refd)
2 *Re An Inquiry* [1988] 2 WLR 33 (folld)
3 *Colyton Investments Pty Ltd* v *McSorley* (1962) 107 CLR 177 (refd)
4 *Prenn* v *Simmonds* [1971] 1 WLR 1381 (folld)
5 *Che Ah & Che Yang Kelsom* v *Che Ahmad* [1941] MLJ 126 (folld)
6 *Re The Estate of Tunku Mohamed Jewa* [1982] 2 MLJ 44 (folld)
7 *Yap Yoke Luan* v *Ong Wee Tok* [1984] 1 MLJ 23 (folld)

Legislation referred to

Evidence Act (Cap 97, 1985 Ed) s 94

Mirza M Namazie (*TM Tan* with him) for the plaintiff.
Choo Kwun Kiat (*Ms Halimah Jalil* with him) for the first defendant.
Mohamed Kamil bin Fadzlullah Suhaimi for the second defendant.
Robert Wee for the third defendant.

Cur Adv Vult

Chao Hick Tin JC: The plaintiff is one of two executrices and trustees of the estate of one Haji Habsah bte Haji Hassan ('the testatrix') who died on 26 December 1983. The other executrix and trustee is the first defendant. Under the will, the testatrix, subject to the payment of just debts and funeral and testamentary expenses, 'give, devise and bequeath all my estate both real and personal of whatsoever nature and wheresoever situate unto my trustees absolutely to be divided between them in equal shares'. Both the plaintiff and the first defendant are not the natural but are the adopted children of the testatrix.

On 13 March 1987, by an amended petition, the plaintiff and the first defendant applied for a grant of probate of the said will, which was granted shortly thereafter. However, on 23 January 1987, well before any application was made for the grant of probate and without consulting the plaintiff, the first defendant gave an option to Polysos Enterprises (Pte) Ltd (hereafter called 'Polysos': the third defendant herein) to sell Lot 1448 Mukim 23, otherwise known as No 66 and 66A, Lorong Melayu, off Changi Road, Singapore ('the property') at a sum of $432,600. The option was exercised by Polysos on 6 February 1987. The plaintiff was in the dark regarding this proposed sale until 19 February 1987. The property is the only asset of the estate.

The option was given by the first defendant without obtaining a valuation report. At that point in time the first defendant only obtained, through a telephone conversation with a valuer of Debenham Tewson & City Valuers Pte Ltd, a rough indication as to the worth of the property. It was only on 21 February 1987 that the valuer gave a valuation report wherein he stated that the property was valued as on 23 January 1987 at $450,000. For completeness I should at this juncture add that the estate duty branch has on 11 February 1988 placed a value of $800,000 on the property as on the date of death of the testatrix, ie 26 December 1983. Further on 23 March 1988, at the request of the solicitors for the plaintiff, M/s Kiong Chai Woon & Co Pte Ltd gave the following values of the property on the dates indicated:

26 December 1983	$700,000	(date of death of testatrix)
23 January 1987	$550,000	(date of option)
3 August 1987	$600,000	(date on which the plaintiff entered into a conditional contract of sale with a new purchaser)
23 March 1988	$600,000	(date of valuation report)

On 14 May 1987, the plaintiff received an offer to purchase the property at $560,000. Polysos was asked whether they would match that price. However, they refused, stating that the estate was bound by the option given by the first defendant. Later on 3 August 1987, the plaintiff entered into a conditional contract of sale with the new purchaser at a price of $560,000.

In this originating summons ('OS') a number of reliefs are prayed for, the first of which is to seek the court's disapproval of the sale effected by the option granted by the first defendant to Polysos. As Polysos are obviously interested and would be affected by the first prayer, I allowed, on the application of Polysos, that they be added as the third defendant. The second defendant is a beneficiary of the estate of the testatrix, being a nephew of the testatrix. There is agreement as between the plaintiff and the first and second defendants on all the prayers in this OS. But I should state that on the first prayer, the

stand of the first defendant is that she leaves it to the court, since she is the person who gave an option to the third defendant subject to the approval of the court. Therefore, the contest on the first prayer is between the plaintiff and the second defendant on the one side and the third defendant on the other.

The option of 23 January 1987 has the following clause:

> 15 The property is sold subject to my obtaining the court's approval to sanction the sale, if necessary.

It is not denied by the third defendant that they knew that the property belongs to the estate of the testatrix and that the first defendant was selling as an executrix. Clauses 10 and 11 of the option say so.

On or about 28 January 1987, before the option was exercised, the third defendant's solicitor (Mr Tay) rang up the first defendant's solicitor (Miss Jalil) requesting for a deletion of cl 15 since it was quite unnecessary to obtain the court's approval; the testatrix died less than six years ago. Miss Jalil informed Mr Tay that the first defendant would not agree to the deletion because although consent of court is not required under s 35(2) of the Conveyancing and Law of Property Act, there 'might be beneficiary/beneficiaries in the estate who might be objecting to the sale of the estate property and that as such if any of the said beneficiary/beneficiaries or the residuary legatees in the will of the deceased were to object to the same, a court order sanctioning the sale must be obtained ...'. Following that telephone conversation a copy of the will of the testatrix was collected on that same day by a clerk of Mr Tay. These facts are not disputed by the third defendant. No affidavit in denial has been filed by either the third defendant or their solicitor, Mr Tay.

Therefore, when the third defendant exercised the option on 6 February 1987, they were well aware of the fact situation, that there is another executrix and trustee who is on the face of the will entitled to a half-share of the estate.

I should also add that arguments have been submitted to me by counsel for the plaintiff that under Muslim law, a Muslim cannot give away more than one-third of his estate by will; that under Muslim law, two-thirds of the estate must go to the heirs of the testatrix unless the heirs agree to the excess bequests. Accordingly the plaintiff submitted that the third defendant must have known or be deemed to have known that there will be other beneficiary or beneficiaries to the estate besides the plaintiff and the first defendant. A related point raised is that Muslim law does not recognize adoption. For reasons dealt with hereafter, there is no need for me to address these questions. Neither did counsel for the third defendant make any submission on them.

There are really two questions for me to decide in relation to the first prayer. First, is there a firm contract to sell and buy the property pursuant to the option given on 23 January 1987 and exercised by the third defendant on 6 February 1987? Second, if the answer to the first question is in the negative, should this court, in the circumstances, approve the said sale.

The answer to the first question will depend on the correct interpretation of the words 'if necessary' in cl 15. Counsel for the third defendant submitted that the expression 'if necessary' should be construed to mean as required or necessitated by law. He relied on the meanings of the word 'necessary' given in *Chambers Dictionary* and *Concise Oxford Dictionary*: 'indispensable'; 'that must be done'. He also cited the case *Re Mercury Model Aircraft Supplies Ltd*[1] to say that 'cautiousness' is not 'necessary'. That case concerned a matter of taxation between solicitor and client.

On the other hand, counsel for the plaintiff argued that 'if necessary' should not in the circumstances be interpreted to mean 'required by law'. My attention was drawn to a very helpful passage in *Black's Law Dictionary*, 5th Ed, where the following is stated as regards the word 'necessary':

> This word must be considered in the connection in which it is used, as it is a word susceptible of various meanings. It may import absolute physical necessity or inevitability or it may support that which is only convenient, useful, appropriate, suitable, proper, or conducive to the end sought. It is an adjective expressing degrees, and may express mere convenience or that which is indispensable or an absolute physical necessity. It may mean something which in the accomplishment of a given object cannot be dispensed with, or it may mean something reasonably useful and proper, and of greater or lesser benefit or convenience, and its force and meaning must be determined with relation to the particular object sought.

In a recent case *Re An Inquiry*,[2] the House of Lords had the occasion to consider the meaning of the word 'necessary' in the context of s 10 of the English Contempt of Court Act 1981, the relevant parts of which read 'no court may require a person to disclose ... the source of information contained in a publication ... unless it be established ... that disclosure is necessary for the prevention of crime'. Lord Griffiths said at pp 64-5:

> 'Necessary' is a word in common usage in everyday speech with which everyone is familiar. Like all words, it will take colour from its context ... I doubt if it is possible to go further than to say that 'necessary' has a meaning that lies somewhere between 'indispensable' on the one hand and 'useful' or 'expedient' on the other and to leave it to the judge to decide towards which end of the scale of meaning he will place it on the facts of any particular case. The nearest paraphrase I can suggest is 'really needed'.

In the light of the authorities above and in the context of the option, I am unable to accept the submission of the

third defendant that the word 'necessary' in cl 15 must be construed to mean 'required by law'. What is necessary in a particular case is a question of fact. The third defendant was at the relevant time aware that the first defendant was selling the property as an executrix. The plaintiff conceded that one of two executors of an estate can enter into contractual arrangements binding on the estate. But it seems to me clear that cl 15 was inserted specifically for the protection of the first defendant, ie she reserves to herself the liberty to apply for the sanction of court, if it is thought necessary for her protection. She explained that at that time the beneficiaries of the estate had yet to be determined. An instance where such an application to court would be necessary is where a beneficiary or a co-executrix explicitly alleges that the executrix has sold the property grossly below market price and thus caused loss to the estate. In the face of such an allegation, as has occurred here, I do not see how one can argue that it is not necessary to obtain the court's approval pursuant to cl 5. The first defendant would open herself to a claim for a devastavit if she did not do so – see *Colyton Investments Pty Ltd* v *McSorley*.[3]

I have reached this conclusion without taking into account the very important telephone conversation that took place between the first defendant's solicitor (Miss Jalil) and the third defendant's solicitor (Mr Tay) on 28 January 1987. If that telephone conversation is taken into account it puts beyond a shadow of doubt as to the intention of the parties on cl 15.

Counsel for the third defendant submitted that the facts relating to this telephone conversation deposed to in the affidavit of Miss Jalil should not be admissible by this court. He said this would violate the parol evidence rule. He relied on s 94 of the Evidence Act (Cap 97, 1985 Ed) which provides that 'no evidence of any oral agreement or statement shall be admitted as between the parties ... for the purpose of contradicting, varying, adding to, or subtracting from its terms'.

However, counsel for the plaintiff submitted that the facts deposed to by Miss Jalil do not contradict, vary, add to or subtract from the option granted by the first defendant. All that is sought to be done is to set out the background relating to the transaction and the reasons behind the inclusion of cl 15, particularly the expression 'if necessary'. He argued that the introduction of these facts is not to alter the written provisions of the option but only to explain a clause therein.

There are ample authorities to support the submission of counsel for the plaintiff. I need only refer to *Prenn* v *Simmonds*[4] where Lord Wilberforce made the following pertinent observations at pp 1383-4:

> The time has long passed when agreements, even those under seal, were isolated from the matrix of facts in which they were set and interpreted purely on internal linguistic considerations. There is no need to appeal here to any modern, anti-literal, tendencies, for Lord Blackburn's well-known judgment in *River Wear Commissioners* v *Adamson* (1877) 2 App Cas 743, 763 provides ample warrant for a liberal approach. We must, as he said, inquire beyond the language and see what the circumstances were with reference to which the words were used, and the object, appearing from those circumstances, which the person using them had in view. Moreover, at any rate since 1859 (*Macdonald* v *Longbottom*, 1El & El 977, 120 ER 1177) it has been clear enough that evidence of mutually known facts may be admitted to identify the meaning of a descriptive term.

The rationale for permitting the admission of such extrinsic evidence is explained by *Chitty on Contract*, Vol 1, 25th Ed at para 818 in this way:

> Extrinsic evidence of this sort does not usurp the authority of the written instrument. It is the instrument which operates. The extrinsic evidence does no more than assist its operation, by assigning a definite meaning to terms capable of such explanation or by pointing out and connecting them with the proper subject matter.

To my mind, on the authorities, I have no doubt that the facts deposed to by Miss Jalil are clearly admissible. In my opinion, far from altering what is in cl 15, they help to clarify the intention of the parties and the meaning of that clause. Before I leave this point, I would wish to add that the rule against parol evidence embodied in s 94 is not absolute and one of the exceptions is that 'any fact may be proved which shows in what manner the language of a document is related to existing facts'. It seems to me clear that the present matter falls within that exception.

Reverting to the first question I posed above, the answer must therefore be in the negative. There is in the circumstances of the case a contract of sale subject to the approval of the court.

I turn next to the second question: whether this court should approve the sale of the property to the third defendant. An executrix is a trustee and her duty is to obtain the best price for the assets of the estate that are being sold. The authorities would appear to establish the principle that in considering an application of this kind, the duty of the court is to see that the estate benefits as much as possible. There is a clear line of authorities on this. The principal case is a decision of the Court of Appeal of the Federation of Malay States in *Che Ah & Che Yang Kelsom* v *Che Ahmad*.[5] There an administrator agreed to sell certain land at $12,777.50, subject to the approval of the court. Two of the beneficiaries informed the court that their solicitor had received an offer of $14,000 for the land. The trial judge approved the sale as he was of the view that the price at which the land was to be sold was not shown to be inadequate at the time of contract. On appeal the sale was disapproved. Terrell JA said, at p 127:

> In all these cases the duty of the court is to protect the rights of the parties who have an interest in the property to be sold ... I cannot accede to the argument put forward by Mr Rix on behalf of the respondent, the administrator, that the court must consider the interests of the proposed purchaser under the conditional contract. A purchaser under these conditions is perfectly well aware that his contract has to be approved by the court before it can be carried into effect and he takes the risk of losing his bargain if a better offer is obtained before the approval of this court is given, or of being held to his bargain if, for any reason, there has been a fall in the value of the land between the date of his offer and the date of the order confirming the contract ... The learned judge approved the conditional contract, being satisfied that at the time the offer was made the price was a reasonable one. As I have said above, I do not consider that that is the correct line of approach, the first duty of the court being to protect the interests of the estate.
>
> The learned judge seems also to have thought that the effect of the later offer may have been to induce the original purchaser to increase his offer. If so, I cannot see that that is any objection ...

The principles declared in *Che Ah*[5] were applied in *Re The Estate of Tunku Mohamed Jewa*[6] and *Yap Yoke Luan* v *Ong Wee Tok*.[7] In the latter case the Malaysian Federal Court reaffirmed that the relevant date to determine whether the price for the property is fair is not at the time of the offer but at the time of the hearing of the application for approval of the proposed sale.

Applying the principles in *Che Ah*[5] to the instant case, there can be no doubt that the proposed sale to the third defendant cannot be approved. The relevant date to determine whether the sale price is fair is the date of hearing of this application. While I note that the difference between the price stated in the option and the valuation made by the valuer of the first defendant is really quite small, but just three months after the option was exercised, the plaintiff obtained an offer to purchase at a substantially increased price of $560,000. As stated above, the plaintiff has in fact on 3 August 1987 entered into a conditional contract of sale at that price with the new purchaser. There will be a substantial loss to the estate if the sale to the third defendant is approved. I do not think the third defendant will be justified in complaining. They knew that the sale is by an executrix, and there is a co-executrix who is also a beneficiary. They realized that the court's approval might have to be obtained. Subsequently they sought to delete cl 15 without success. They were told why cl 15 is necessary. They clearly knew the risks involved. The letter of 21 September 1987 from M/s SW Tay & Co (solicitors for the third defendant) to the solicitors for the first defendant is an affirmation by the third defendant that in the circumstances an application to court to sanction the proposed sale is necessary. In that letter M/s SW Tay Co wrote: 'with reference to the last paragraph of your said letter, please let me know whether you have since taken out an application in the High Court to obtain an order of court sanctioning the sale pursuant to cl 15 of the option. If not, please let us know when you intend to take out this application and also keep us informed of the latest development.'

I think at this juncture I ought to make some comments on the conduct of the first defendant. It seems to me that the first defendant should have acted with a bit more prudence before she gave the option to the third defendant to purchase the property at $432,000. First, as an executrix and trustee she should have obtained a proper valuation before agreeing to sell. She merely relied on an off the cuff response of the valuer over the telephone. But the valuer clearly stated that the response he gave was subject to site inspection and proper valuation to be made. She gave no particulars as to what other efforts she made to find a buyer for the property. Second, the first defendant gave the option without even consulting the plaintiff, who is a co-executrix and beneficiary, and without letting her know she is a co-executrix or letting her have a copy of the will. I note the first defendant's explanation that even if consulted the plaintiff would not have agreed, having regard to her previous stand on selling the property while the testatrix was still living. But the first defendant should have at least tried again. In my view, she seems to have acted with undue haste in giving the option. But I would also say that this haste does not appear to be due to any improper motive. She was concerned, rightly or wrongly, about property prices and was afraid that property prices might go down and the estate might suffer. After all it would be to her advantage if the property could fetch a higher price. Fortunately for the first defendant, there is the safeguard in cl 15. I am not for a moment suggesting that the third defendant knew that the first defendant gave the option without proper valuation.

There remains a procedural point raised by counsel for the third defendant which I should briefly deal with. He seems to argue that by cl 15, it should be the first defendant who should make the application to court to sanction the proposed sale and that this is not the position in the present OS. But the fact is that even before the receipt of the letter dated 21 September 1987 from the solicitors for the third defendant and before the first defendant could take out an application, the plaintiff herein has already filed the present OS on 8 September 1987 to disapprove the proposed sale to the third defendant. Subsequently, the first defendant did on 2 March 1988 file Originating Summons No 194/88 to seek the court's approval to the proposed sale. In that OS, like in the present OS, the third defendant also made an application to be added as a defendant therein. As it was obvious that OS No 194/88 would in effect duplicate what is already before the court in the present OS, OS 194/88 and the application of the third defendant therein were by consent withdrawn with leave of the court. In the

circumstances, I do not think there is really any merit in this technical objection of the third defendant. It is clear that the first defendant has all along wanted to put the matter before the court and obtain its approval. In her affidavit filed herein, she has expressly said so and has asked the court to rule on it.

In the result I do not think I ought to sanction the proposed sale to the third defendant. Instead, I would grant an order in terms of the first prayer.

Order accordingly.

Solicitors: *Mallal & Namazie*; *HA Jalil & Associates*; *Kamil & Co*; *Ho & Wee*.

Reported by *Ng Sheau Jiuan*

MALAYSIAN REPORTS

Nge Siew Noon v Sitiawan Credit Corporation Sdn Bhd (Bank Negara Malaysia, Intervener)

HIGH COURT (IPOH) – APPLICATION FOR EXECUTION NO 49-145-87 (CIVIL SUIT NO 24-365-87)
PEH SWEE CHIN J
7 DECEMBER 1988

Civil Procedure – Locus standi – Plaintiff sought execution of default judgment obtained against defendant bank – Bank Negara Malaysia investigating into affairs of defendant bank – Whether Bank Negara Malaysia had locus standi to intervene in plaintiff's execution proceedings

Civil Procedure – Stay of execution of default judgment obtained against defendant bank – Application for stay by Bank Negara Malaysia – Bank Negara Malaysia investigating into affairs of defendant bank – Whether court had jurisdiction to stay execution

The plaintiff obtained a judgment in default against the defendant bank and caused to be issued a writ of seizure and sale. He then obtained an order prohibiting the defendant bank from dealing with some lands owned by the defendant. By the time a summons for directions for sale of the lands was filed, other judgment creditors had filed their respective writs of seizure and sale. The intervener, Bank Negara Malaysia, then applied to intervene in these execution proceedings and sought a stay of execution under reg 7 of the Essential (Protection of Depositors) Regulations 1988 ('the Regulations') until the completion of investigation by the intervener into the affairs of the defendant. The defendant submitted that the intervener had no locus standi to appear in the proceedings and the Regulations did not give the intervener power to stop the execution. The court thus had to consider whether it had jurisdiction to grant a stay of execution of the default judgment obtained by the plaintiff.

Held, allowing the intervener's application:

(1) In a sense, an emergency situation had come into existence threatening the 'economic life' of the depositors of the defendant bank because of the supervening insolvency of the defendant. One of the ways to protect them would be to give back all the depositors a percentage of the refund of their deposits rather than to leave them in the lurch with nothing to hope for. An order made in regard to the sale of the defendant's lands would directly affect the intervener's rights against the defendant under the Regulations in protecting the depositors and as such, the intervener had the locus standi to intervene in the proceedings.

(2) At the hearing, a petition for winding up had already been presented against the defendant bank so that s 224 of the Companies Act 1965 came into operation and the grant of an order of stay was really declaratory of the effect of the said s 224.

[*Editorial Note*: The plaintiff has appealed to the Supreme Court vide Civil Appeal No 409 of 1988.]

Case referred to

1 *Pegang Mining Co Ltd* v *Choong Sam & Ors* [1969] 2 MLJ 52 (folld)